

SECOND REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1656
91ST GENERAL ASSEMBLY

Reported from the Committee on Judiciary, April 10, 2002, with recommendation that the House Committee Substitute for House Bill No. 1656 Do Pass.

Taken up for Perfection April 24, 2002. House Committee Substitute for House Bill No. 1656 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

4259L.03P

AN ACT

To repeal sections 547.170, 566.030, 566.060 and 650.057, RSMo, and to enact in lieu thereof five new sections relating to sexual offenses, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 547.170, 566.030, 566.060 and 650.057, RSMo, are repealed and
2 five new sections enacted in lieu thereof, to be known as sections 192.978, 547.170, 566.030,
3 566.060 and 650.057, to read as follows:

192.978. The department of health and senior services shall, subject to
2 **appropriations, provide upon request to any hospital, as defined in section 197.020, RSMo,**
3 **rape kits and similar collection materials to aid in the identification of rape suspects.**

547.170. In all cases where an appeal or writ of error is prosecuted from a judgment in
2 a criminal cause, except where the defendant is under sentence of death or imprisonment in the
3 penitentiary for life, or a sentence of imprisonment for a violation of sections 195.222, RSMo,
4 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, **566.032, 566.040,**
5 **566.060, 566.062, 566.070, or 566.100,** RSMo, any court or officer authorized to order a stay
6 of proceedings under the preceding provisions may allow a writ of habeas corpus, to bring up
7 the defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties,
8 to be approved by such court or judge.

566.030. 1. A person commits the crime of forcible rape if such person has sexual

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 intercourse with another person by the use of forcible compulsion. Forcible compulsion includes
3 the use of a substance administered without a victim's knowledge or consent which renders the
4 victim physically or mentally impaired so as to be incapable of making an informed consent to
5 sexual intercourse.

6 2. Forcible rape or an attempt to commit forcible rape is a felony for which the
7 authorized term of imprisonment is life **without possibility of parole** imprisonment or a term
8 of years not less than [five] **ten** years, unless in the course thereof the actor inflicts serious
9 physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or
10 subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person,
11 in which case the authorized term of imprisonment is life imprisonment **without possibility of**
12 **parole** or a term of years not less than [ten] **fifteen** years.

566.060. 1. A person commits the crime of forcible sodomy if such person has deviate
2 sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion
3 includes the use of a substance administered without a victim's knowledge or consent which
4 renders the victim physically or mentally impaired so as to be incapable of making an informed
5 consent to sexual intercourse.

6 2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the
7 authorized term of imprisonment is life imprisonment **without possibility of parole** or a term
8 of years not less than [five] **ten** years, unless in the course thereof the actor inflicts serious
9 physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or
10 subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person,
11 in which case the authorized term of imprisonment is life imprisonment or a term of years not
12 less than [ten] **fifteen** years.

650.057. 1. Except as provided in subsection 3 of this section, no local law enforcement
2 agency may establish or operate a system before January 15, 1992, and unless:

3 (1) The equipment of the local system is compatible with that of the state system; and

4 (2) The local system is equipped to receive and answer inquiries from the Missouri DNA
5 profiling system or FBI databank and transmit data to the Missouri DNA profiling system and
6 FBI databank; and

7 (3) The procedure and rules for the collection, analysis, storage, expungement and use
8 of DNA profiling data do not conflict with procedures and rules applicable to the Missouri
9 system and the FBI DNA databank.

10 2. The Missouri department of public safety shall adopt rules to implement this section.

11 3. Nothing in subdivisions (1) and (2) of this section shall prohibit a local law
12 enforcement agency from performing DNA profiling analysis in individual cases to assist law
13 enforcement officials and prosecutors in the preparation and use of DNA evidence for

14 presentation in court. Implementation of sections 650.050 to 650.057 shall be subject to future
15 appropriations except for section 650.050.

16 **4. Nothing in this section shall prohibit a law enforcement agency from obtaining**
17 **a saliva sample through the use of a sterile cotton swab for the purpose of obtaining a DNA**
18 **sample for purposes of DNA analysis as part of the agency's normal booking process for**
19 **individuals arrested for any felony violation, if taken in conjunction with the other**
20 **procedures followed by the law enforcement agency in processing an individual arrested**
21 **for a felony violation. This subsection does not authorize the drawing of a blood sample**
22 **for this purpose unless a search warrant is first obtained.**